

**Town of Porter
Board of Zoning Appeals
Meeting Minutes
April 15, 2015**

- A. Meeting was called to order at 6:35 p.m.
- B. Pledge of Allegiance
- C. Roll Call
 - Present: Kremke, Timm, Stronks, Barry, Huyser, Sexton
 - Also Present: Ms. Sufana, Ms. Frost
 - Absent: Mr. Mandon
- D. Quorum-There is enough present for a quorum.
- E. Consideration of Minutes from March 18, 2015
 - Mr. Sexton made a motion to accept the minutes from the March 18, 2015
 - Mr. Timm seconded
 - Motion approved 5-0
- F. Audience Participation-None
- G. Old Business and Matters Tabled
 - Seven Peaks Water Park/Scott Brinton
 - 150 E US HWY 20
 - Porter, IN 46304
 - Approval of proposed Written Commitments for Variance

Ms. Frost reminded the BZA that the use variance granted last month is subject to The BZA's approval of the required Written Commitments, which will then be recorded on the property. Ms. Frost reported that she received a draft of the proposed written commitments that Mr. Brinton sent Mr. Barry last week. Mr. Mandon, Mr. Barry, and Ms. Frost reviewed the proposed written commitments and made comments, and Ms. Frost drafted proposed changes and sent them to Mr. Brinton. This afternoon Ms. Frost received an email from Mr. Brinton which had an electronically signed copy of the written commitments attached. The electronically signed copy received from Mr. Brinton incorporated all of the suggested changes which Ms. Frost had previously sent to Mr. Brinton, which evidences that Seven Peaks accepted the changes. Ms. Frost then distributed to BZA members copies of both the marked up Written Commitments she forwarded to Mr. Brinton, as well as the electronically signed copy she received from Mr. Brinton Earlier this afternoon, and went through the proposed written commitments, as revised:

Ms. Frost explained that, technically the owner of the property is White Stallion LC, there is a separate LLC that operates the waterpark called Seven Peaks Waterpark

Porter LC. They are both listed in the proposed Written Commitment but the written Commitment will be signed by White Stallion LC as the property owner.

Ms. Frost explained that the proposed Written Commitment specifies the variances that were requested, which include to allow paintball, to allow movie nights, to allow a fall festival, to allow ice skating including a Christmas event, to allow go karts, a Easter event, and to allow laser tag in a B-3 zone. A reference to after hour's parties, included in the original draft of the Written Commitment received from Mr. Brinton was deleted because it was not listed on the Use Variance application nor discussed at last month's meeting.

Ms. Frost explained that the specific obligations that are included in the proposed Written Commitment are as follows:

- a. By June 6, 2015, White Stallion LC will install a fence on the south side of the parking lot separating the parking lot from the adjacent Summer Tree residential properties. White Stallion LC and the Summer Tree HOA must agree upon type of fence to be installed.
- b. By June 6, 2015, White Stallion LC will install a French drainage system or other drainage system acceptable to the Town sufficient to alleviate the drainage and flooding issues currently affecting the adjacent properties on the north side of the water park.
- c. By June 6, 2015, White Stallion will submit for approval a Storm Water Pollution Prevention Plan in compliance with Town ordinances and State of Indiana requirements.
- d. By June 6, 2015, White Stallion LC will reconfigure the parking lot entrance in conformity with the original drawing submitted by White Stallion LC to the Town Plan Commission on June 25, 2013.
- e. By July 31, 2015, White Stallion LC will complete installation of the roadway and pedestrian improvements along Waverly Road in accordance with the plans as approved by the Town Plan Commission on August 21, 2013.
- f. By October 31, 2016, White Stallion LC will complete installation of landscaping in the parking lot area acceptable to the Town.
- g. By October 31, 2016, White Stallion LC will complete parking lot paving and installation of any other remaining items as set forth in, and in accordance with, the plans as approved by the Town Plan Commission on August 21, 2013. Additionally, by October 31, 2016, White Stallion LC will install a drainage system acceptable to the Town which is sufficient to alleviate any drainage and flooding problems associated with the parking lot, including without limitation along the north side of the parking lot.
- h. Any go karts operated at the site shall be electric only.
- i. The additional permitted activities may be conducted year round but may only be conducted during the same operational hours as approved previously with the original variance granted June 6, 2012 and as specified in the Written

Commitments approved by the Town Board of Zoning Appeals on August 15, 2012.

- j. Paintball activities may only be conducted in conformity with, and only to the extent permitted by, applicable Town ordinances, including without limitation the projectile ordinance.
- k. Any paintball area will be fully enclosed with protective netting that is at least 12 feet high.

These are listed twice in the Written Commitment document, first in the "Whereas" clauses, reciting the commitments the BZA required, and then in Section 1, where White Stallion specifically covenants and agrees to these obligations. (see above)

Ms. Frost then explained that the Written Commitments will be binding upon: the owner of any of the Property; any subsequent owner of the Property; and, a person who acquires an interest in any of the Property, including without limitation a leasee or licensee operating activities on the Property.

Ms. Frost explained that Mr. Brinton supplied the legal descriptions that she had requested with the electronically signed copy he e-mailed, but we would need to have a copy with original signatures before the BZA signs it and before it can be recorded.

Brenda Brueckheimer asked about if anyone has seen a site plan for the go karts or anything. Thinks it would be a good idea to see the location of where all these things will go for drainage issues. What happens if the any of the items are not done by date stated? The Board commented that if all items are not done by the date specified they do not open.

Joe Hoppe, of 1210 Dune Meadows, has concerns with the parking lot. The nice wooded area behind his has turned into a wooded mosquito breeding area where the trees are rotted and falling down. He hears that is possibly going to get straightened out in 2016. Wants to know about the site plans and engineering plans. What happens when they want to put up an indoor ice skating ring in the parking lot? The Board commented that all work will be done on the east side of Waverly not the parking lot, and the ice rink is outdoor only.

Ms. Frost stated that the BZA has final approval of the form of Written Commitments, and that it is important to make sure any changes needed are made now. The approval motion last month reference compliance with matters in the TAC minutes, but if there are particular items that are important they should be specifically added to the written commitments. The Board then discussed the following matters referenced in the TAC minutes: the size of the paintball area of 200' x 250', the caliber of the paintballs and guns be 50, no loudspeakers, biodegradable paint only, and outdoor ice skating only.

Mr. Sexton made a motion to specifically include the following in the written Commitments: the size of the paintball area, the caliber of paintballs and guns, no loudspeakers, paint is biodegradable only, and outdoor ice skating only. Mr. Timm seconded, Motion passed 5-0

Ms. Frost stated that at the last meeting we didn't adopt the written findings. Ms. Frost distributed to BZA members proposed written findings and read the proposed findings, which included a list of all of the requirements for the written commitments. She stated that we need to add to the findings the new things that were just added to the written commitments.

Mr. Stronks made a motion to approve the findings of facts as written, to include in the List of the requirements for the written commitments the changes approved at tonight's meeting. Mr. Huyser seconded. Motion passed 5-0

H. New Business

I. Other Business- none

Update from Attorney-nothing

Board Comments

J. Adjournment- 7:11 pm

Mr. Timm made a motion to adjourn the meeting. Mr. Stronks seconded the motion

Motion approved 5-0

Next Meeting will be held on May 20, 2015

 Date 5-20-15
President

 Date 5-20-15
Secretary